



November 20, 2009

## TECHNICAL STAFF REPORT

*Petition Accepted on October 8, 2009  
Planning Board Meeting of December 10, 2009  
County Council Hearing to be scheduled*

**Case No./Petitioner: ZRA 123 – Forest Venture II, LLC (c/o Richard B. Talkin, Esq.)**

**Request:** Zoning Regulation Amendment to Section 100.G to allow the Zoning Board to approve variances to the bulk regulations in conjunction with site plan zoning petitions.

**Department of Planning and Zoning Recommendation**

**APPROVAL**

### **I. DESCRIPTION OF PROPOSAL**

- **The proposal is for one amendment to Section 100.G.2.g of the Zoning Regulations.**

Under the proposed amendment, the Zoning Board would have authority to approve variances to the bulk regulations in conjunction with site plan zoning petitions.

- **According to the petition, the reason for the proposed amendment is to increase the efficiency of the zoning process.**

The Petitioner states that the omission of the authority of the Zoning Board to approve variances in site plan zoning cases is an oversight, and proposes the amendment in order to correct the oversight and increase the efficiency of the zoning process.

- **The complete proposed amendment text is attached to this Technical Staff Report as Attachment A (Petitioner's Proposed Text).**

### **II. EXISTING AND PROPOSED REGULATIONS**

- **Currently, in site plan rezoning cases, the Zoning Board is permitted to approve a use allowed as a conditional use in the zoning district to which the property is rezoned and the conditional use is then permitted as a matter of right and does not require approval by the Hearing Authority. There is no provision in the Zoning Regulations to permit the Zoning Board to approve variances in conjunction with site plan rezoning cases and an applicant with an approved site plan zoning petition for which a variance is sought must file a separate petition to have the variance approved by the Hearing Authority.**

Under the proposed amendment, the Zoning Board would have authority to approve variances to the bulk regulations in conjunction with site plan zoning petitions and the requirement of a separate petition for variance approval by the Hearing Authority would be eliminated.

### III. BACKGROUND INFORMATION

#### A. Scope of Proposed Amendment

- The amendment would affect any site plan zoning petition for which a variance is sought.

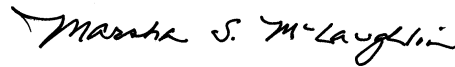
### IV. EVALUATIONS AND CONCLUSIONS

- The amendment is generally harmonious with the legislative intent of Section 100.A.4 to provide a guide for public action in the orderly and efficient provision of public facilities and services, and for private enterprise in undertaking development, investment and other economic activity relating to land uses and structures throughout the County.
- The Department of Planning and Zoning concurs with the Petitioner's justification that the proposal would provide for a more efficient zoning process by reducing a two-step process to a one-step process. The proposal is a logical extension of the existing authority of the Zoning Board to allow conditional uses as a matter of right in site plan zoning cases.
- The proposed amendment is not contradicted by any historical information in the Zoning Regulations. There is no logical reason that the Zoning Board cannot approve variances as well as conditional uses.

### V. RECOMMENDATION

### APPROVAL

For the reasons noted above, the Department of Planning and Zoning recommends that ZRA-123 be **APPROVED**.



11/25/09

Marsha S. McLaughlin, Director

Date

NOTE: The file is available for public review at the Department of Planning and Zoning Public Information Counter.

MM:ZLK/zlk

## **ATTACHMENT A**

### **Petitioner's Proposed Text**

(CAPITALS indicates text to be added; [[brackets indicate text to be deleted]].)

#### **SECTION 100: General Provisions**

##### **G. Amendments**

##### **2. Site Plan Zoning Petitions**

- g. A site plan zoning petition approved by the Zoning Board may include a use allowed as a conditional use in the zoning district to which the property is rezoned AND/OR A VARIANCE TO THE BULK REGULATIONS. If this occurs, the conditional use AND/OR VARIANCE shall be permitted as a matter of right, in accordance with the site plan approved by the Zoning Board, and shall not require approval by the Hearing Authority.